



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 26, 1996

Mr. John A. Riley
Director
Litigation Support Division
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR96-0399

Dear Mr. Riley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 36880.

The Texas Natural Resource Conservation Commission (the "commission") received a request for its files relating to four companies: Lithium of Lubbock, Basalt, Inc., Recovery and Reclamation, Inc., and Sand Hill Industries. You have made available to the requestor all responsive information except several documents submitted to the commission by Recovery and Reclamation, Inc. You contend that these documents are excepted from required public disclosure by section 552.110 of the Government Code because they contain the trade secrets of Recovery and Reclamation, Inc. Pursuant to section 552.305, we notified Recovery and Reclamation, Inc. of the request for information and of its opportunity to claim that the information at issue is excepted from disclosure. Recovery and Reclamation, Inc. did not respond to our letter. Therefore we consider only the commission's request for our decision.

Section 552.301(b) requires a governmental body to submit to this office (1) general written comments giving the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, and (3) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. You did not, however, submit to this office copies or representative samples of the specific information that you claim is excepted from disclosure.

Pursuant to section 552.303(c) of the Government Code, this office notified you by letter dated November 27, 1995, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days after the date you received our notice. The notice further stated that under section 552.303(e), failure to comply would result in the legal presumption that the information at issue is public information.

You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of the request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates the existence of a compelling interest that overcomes this presumption. *See Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). You have not shown compelling reasons why the information at issue should not be released. Consequently, the information is presumed to be public and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref.: ID# 36880

cc: Mr. Parke Eldred
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the District of Oregon
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